

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

EDWARD AGOSTINELLI and *
JOANN AGOSTINELLI, *

Plaintiffs,

v. *

FIFTH THIRD BANK, d/b/a FIFTH *
THIRD MORTGAGE COMPANY, *

Defendant.

Case No. 1:10-cv-00294

JOINT MOTION TO AMEND SCHEDULING ORDER

COME NOW counsel for Plaintiff and Defendants in the above-styled cause and jointly move this Court to amend the Rule 16(b) Scheduling Order (Doc. 10) based on Plaintiff's filing of an unopposed Motion for Relief to file Amended Complaint naming additional parties. As grounds for this Joint Motion, the undersigned counsel say as follows:

1. Additional discovery needs to be completed, but these parties do not want to proceed with discovery until the new parties have been served and counsel has appeared on their behalf. If the parties were to proceed with discovery, it would result in redundant discovery and expenses because counsel for the new Defendants would have to retake depositions taken between the current parties.

2. Defendant may assert cross-claims against these newly added Defendants and additional discovery is necessary to make that determination.

3. The parties also have impending expert disclosures due. Additional facts, documents, and discovery need to be obtained from the new parties in order to provide complete information to the experts for them to formulate their opinions.

4. No parties will be prejudiced by an extension of the Rule 16(b) deadlines.

5. Plaintiff's counsel consents to his electronic signature to this document to be filed by Defendant.

WHEREFORE, the premises considered, Plaintiff and Defendant respectfully requests this Court to allow the additional parties to be served and to file responsive pleadings before it orders a meeting of the new parties and the entry of an Amended Rule 16(b) Scheduling Order. The parties also respectfully request that they be relieved of further compliance with the current Rule 16(b) Scheduling Order.

Respectfully submitted this the 19th day of October, 2010.



s/M. Warren Butler

M. WARREN BUTLER

BUTLM3190

SCOTT D. STEVENS

STEVVS0320

Attorneys for Defendant

Fifth Third Bank

Starnes Davis Florie LLP

RSA Battle House Tower, Suite 20290

P. O. Box 1548

Mobile, AL 36633-1548

Phone: (251) 405-5065

Fax: (251) 433-5901

E-mail: wbutler@starneslaw.com

E-mail: sstevens@starneslaw.com

/s/Kenneth J. Riemer

Kenneth J. Riemer, Esq.

Attorney for Plaintiff

P. O. Box 1206

Mobile, AL 36633

Phone: (251) 432-9212

Fax: (251) 433-7172

E-mail: kjr@alaconsumerlaw.com